Clerk of Court

(Rev. 8/06) Bill of Costs

UNITED STATES  Southern Distriction	DISTRICT COURT ct of New York	
Association For Molecular Pathology et al.	BILL OF CO	STS
$V_{\cdot}$ United States Patent & Trademark Office et al.	Case Number: 1:09-cv-04515-RWS	
Judgment having been entered in the above entitled action on the Clerk is requested to tax the following as costs:	8/16/2012 against Plaintif	fs AMP et al.
Fees of the Clerk		\$
Fees for service of summons and subpoena		
Fees of the court reporter for all or any part of the transcript necess	sarily obtained for use in the case	
Fees and disbursements for printing		
Fees for witnesses (itemize on page two)		0.00
Fees for exemplification and copies of papers necessarily obtained	I for use in the case	
Docket fees under 28 U.S.C. 1923		
Costs as shown on Mandate of Court of Appeals		612.14
Compensation of court-appointed experts		
Compensation of interpreters and costs of special interpretation se		
Other costs (please itemize)		
(F)	TOTAL	\$ 612.14
SPECIAL NOTE: Attach to your bill an itemization and documen	ntation for requested costs in all categorie	S.
DECLA	RATION	
I declare under penalty of perjury that the foregoing costs are confor which fees have been charged were actually and necessarily p following manner:	performed. A copy of this bill has been s	
Electronic service by e-mail as set forth below and/o	r.	
Conventional service by first class mail, postage press, Attorney:  Brian M. Poissant	paid as set forth below.  Digitally signed by Brian M. Poissant DN: cn=Brian M. Poissant, o=Jones Day, ou=Jones Day, ema Date: 2012.09.17 12-43:21 -04'00'	ail=bmpoissant@jonesday.com, c=US
Name of Attorney: Brian M. Poissant		
Myriad Genetics, Inc.	Date:	9/17/2012
Name of Claiming Party	Batc.	

Costs are taxed in the amount of \_\_\_\_\_ and included in the judgment.

Deputy Clerk

Date

**SAO 133** 

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## United States District Court

WITNESS FEES (computation, cf. 28 U.S.C. 1821 for statutory fees)								
	ATTENDANCE		SUBSISTENCE		MILEAGE		Total Cost	
NAME , CITY AND STATE OF RESIDENCE	Days	Total Cost	Days	Total Cost	Miles	Total Cost	Each Witness	
							\$0.00	
							\$0.00	
							\$0.00	
							\$0.00	
							\$0.00	
							\$0.00	
					ТС	OTAL	\$0.00	

#### **NOTICE**

#### Section 1924, Title 28, U.S. Code (effective September 1, 1948) provides:

"Sec. 1924. Verification of bill of costs."

"Before any bill of costs is taxed, the party claiming any item of cost or disbursement shall attach thereto an affidavit, made by himself or by his duly authorized attorney or agent having knowledge of the facts, that such item is correct and has been necessarily incurred in the case and that the services for which fees have been charged were actually and necessarily performed."

#### See also Section 1920 of Title 28, which reads in part as follows:

"A bill of costs shall be filed in the case and, upon allowance, included in the judgment or decree."

# The Federal Rules of Civil Procedure contain the following provisions: Rule 54 (d)

"Except when express provision therefor is made either in a statute of the United States or in these rules, costs shall be allowed as of course to the prevailing party unless the court otherwise directs, but costs against the United States, its officers, and agencies shall be imposed only to the extent permitted by law. Costs may be taxed by the clerk on one day's notice. On motion served within 5 days thereafter, the action of the clerk may be reviewed by the court."

#### Rule 6(e)

"Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served upon him by mail, 3 days shall be added to the prescribed period."

#### Rule 58 (In Part)

"Entry of the judgment shall not be delayed for the taxing of costs."

Association for Molecular Pathology v. USPTO, No. 1:09-cv-04515-RWS (S.D.N.Y.)

Itemization of "Costs as shown on Mandate of Court of Appeals"

Pursuant to the Federal Circuit's judgment issued August 16, 2012, and Federal Rule of Appellate Procedure 39(e), Myriad requests the following costs:

• the reporter's transcript, needed to determine the appeal: \$157.14

• the fee for filing the notice of appeal (paid in the District Court): \$455.00

<u>Total</u>: \$612.14

### **CERTIFICATE OF SERVICE**

This is to certify that on September 17, 2012, a true and correct copy of the foregoing bill of costs, accompanying declaration of Brian M. Poissant with exhibits, and accompanying notice of hearing have been served on all counsel of record via the court's ECF system, as well as by overnight delivery. In addition, two hard copies were filed by hand on September 17, 2012, with the Court.

/s/ Brian M. Poissant

Brian M. Poissant